



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

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February 18, 2022

The Honorable Michael L. Connor
Assistant Secretary of the Army for Civil Works
Department of the Army
108 Army Pentagon
Washington, D.C. 20310-0108

Dear Assistant Secretary Connor:

We write to you regarding how the U.S. Army Corps of Engineers (Corps) engages, consults, and partners with non-federal sponsors to complete its duties, as directed by Congress. Particularly, we encourage more robust communication and coordination with tribes across the United States.

Partnerships are the bedrock of the Corps project delivery process. Thorough and effective communication between the Corps and non-federal sponsors can lead to terrific success stories, where whole communities see the benefits of these projects. However, when effective communication is lacking or non-existent, it limits opportunities for successful, locally-supported resolution of local water resources challenges.

The House Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment recently held a hearing where it received testimony from two tribal chairmen on their experiences in working with the Corps.¹ Chairman Darrell G. Seki Sr., of the Red Lake Band of Chippewa Indians, MN, discussed his tribes' long and complicated history of working as a partner with the Corps. Chairman Seki found communications with Corps staff to "vary widely from very straight forward and cordial to nearly non-existent" and that the bureaucracy "can be extremely challenging to navigate".²

Chairman Peter Yucupicio, of the Pascua Yaqui Tribe, AZ, discussed "the glaring need for additional federal investment in the development, repair, and replacement of...infrastructure on Tribal lands." He went on to say that "unfortunately, many tribes lack the financial resources needed to address these infrastructure needs. Compounding these challenges, tribes often find that federal programs established to address water infrastructure needs in the United States are hard to access."³

¹ Subcommittee on Water Resources and Environment, hearing on "Proposals for a Water Resources Development Act of 2022: Stakeholder Priorities", February 8, 2022, 117th Congress, <https://transportation.house.gov/committee-activity/hearings/proposals-for-a-water-resources-development-act-of-2022-stakeholder-priorities>.

² See id.

³ See id.

In the *Water Resources Development Act (WRDA) of 2020*, Congress included several provisions aimed at fostering greater coordination between the Corps and Indian tribes, as well as to address some of the challenges tribes face in partnering with the Corps to resolve local water resources challenges.⁴

For example, section 112(a) of *WRDA 2020* directed the Corps to expeditiously complete two Congressionally-mandated reports related to Corps-tribal relations that are long overdue.⁵ Section 112 (b) and (c) of *WRDA 2020* directed the Secretary to “promote meaningful involvement” with Indian tribes in carrying out water resources development projects, including providing additional guidance and technical assistance to tribes “to increase understanding of the project development and implementation activities, regulations, and policies of the Corps...”⁶

Similarly, section 118 of *WRDA 2020* authorized the Corps to work with rural and economically disadvantaged communities, including tribal communities, to develop feasibility studies for flood risk reduction and hurricane and storm damage reduction projects at 100 percent federal cost share.⁷

President Biden has made it a priority of his administration to improve engagement with tribes, as well. On January 26, 2021, the President issued the *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, which reaffirms Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) and the Presidential Memorandum of November 5, 2009 (Tribal Consultation).⁸ The January 2021 Memorandum directs the head of each agency to develop a report on efforts to implement the goals of Executive Order 13175.

Also, on November 15, 2021, President Biden signed the bipartisan *Infrastructure Investment and Jobs Act* into law.⁹ The *Jobs Act* provides \$17.1 billion to the Corps to carry out its Civil Works missions. This transformational investment will improve the navigation of our ports, harbors, and inland waterways; increase resiliency to floods and mitigate potential damages from extreme weather events; preserve and restore vital ecosystems that are significant to many communities and cultures in our nation; and invest in environmental infrastructure projects that support local wastewater and water supply needs. We urge you to take action to ensure that every tribal community has the needed information, accessibility, and consultation with the Corps to access these funds and build positive working relationships to advance their projects.

Accordingly, we urge you to consider the testimony received by the subcommittee and improve tribal consultation, both in policy and in practice across the Corps’ 38 districts. Specifically,

⁴ Pub. L. 116–260, Division AA.

⁵ See id.

⁶ See id.

⁷ See id.

⁸ Presidential Action, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, January 26, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

⁹ Pub. L. 117-58.

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we request that you share your thoughts on recommendations received by the subcommittee, including:

- (1) Designating a dedicated staff member as a tribal liaison for each Corps district to increase government-to-government consultation, to ensure tribes are made aware of ongoing and future Corps activities, and to address tribal concerns;
- (2) Developing a written plan for tribal engagement on environmental infrastructure programs, including that a notice of funding availability be shared with eligible tribes, as well as outlining the types of projects eligible for these programs; and
- (3) Adjusting cost share requirements on Corps projects for tribes and disadvantaged communities, specifically for environmental infrastructure projects.

Additionally, please share any information on the Corps' report on tribal engagement efforts, pursuant to the January 2021 Presidential Memorandum titled "*Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*."

As the Committee on Transportation and Infrastructure develops the next WRDA for 2022, we welcome the opportunity to continue to work with you on improving the consultation and partnership between tribal governments and the Corps.

Sincerely,



PETER A. DeFAZIO
Chair
Committee on Transportation and
Infrastructure



GRACE F. NAPOLITANO
Chair
Subcommittee on Water Resources and
Environment

cc: Lieutenant General Scott A. Spellmon, Chief of Engineers and Commanding General
U.S. Army Corps of Engineers